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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,131	10/22/2003	Leandro Rizzuto JR.	892.0033USU	5342
47545	7590	02/23/2006		
STEVEN A. GARNER, ESQ. CONAIR CORPORATION ONE CUMMINGS POINT ROAD STAMFORD, CT 06902			EXAMINER WILLATT, STEPHANIE L	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/691,131

Applicant(s)

RIZZUTO, LEANDRO

Examiner

Stephanie L. Willatt

Art Unit

3732

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 4-8 and 13 are objected to because of the following informalities:
  - Claims 4-6 recite a single hair contacting element. Which hair contacting element is being recited? Claims 4-6 were examined as though both hair contacting elements were recited.
  - Claim 13 recites the hair contacting element of claim 12 as though it is separate from the hair styling tool, i.e. that the hair contacting element is interactive with the hair styling tool. However, as disclosed in the preamble of claim 11, the hair contacting element is part of the hair styling tool.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-7, 10, 11, 14-17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji et al. (US 5,223,694) in view of Henneberger et al. (US 4,658,520).

Tsuji et al. disclose a hair styling tool comprising a handle portion (30, 40) with a pair of pivotally connected arms. Each arm has a hair contacting element (first pipe 10 and second pipe 20). A heater (70, 80) is located within each of the pivotally connected arms. One of the hair contacting elements (first pipe 10) has one or more apertures (vents 12 on bottom surface). The apertures (vents 12 on bottom surface) are in communication with and aligned with one or more vents (12 vents on top surface) of the hair styling tool and are capable of venting moisture, heat and/or pressure, as discussed in column 5, lines 32-41. The vents (vents 12 on top surface) are in the distal end of the arms. The arms are pivotally connected at a proximal end of the hair styling tool. The hair contacting elements (first pipe 10 and second pipe 20) are operatively located at a distal end of the hair styling tool. The hair contacting elements (first pipe 10 and second pipe 20) are heat conductive plates that are heated by the heaters (70, 80), as shown in Figure 2. The hair contacting elements (first pipe 10 and second pipe 20) has a hair contacting surface that is substantially planar. Regarding claims 16, 17, and 20, whether the apertures are randomly placed or placed in a predetermined manner does not further limit the structure of the hair styling tool.

Tsuji et al. do not disclose that the apertures are in the form of perforated grooves. However, Henneberger teaches how placing apertures (steam escape holes 6) in grooves (11) on the ironing surface of a steam iron distributes the steam across the work surface in column 1, line 57 to column 2, line 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the apertures of Tsuji et al. in grooves, as taught by Henneberger, in order to distribute the

steam across the work surface (hair). Placing Tsuji et al.'s apertures in grooves would result in recessed apertures or the apertures on an additional surface.

4. Claims 8, 12, 13, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji et al. (US 5,223,694) in view of Lo (US 6,223,753).

Tsuji et al. discloses the features discussed above, but does not disclose that hair contacting surfaces are corrugated. However, Lo discloses a hair styling tool with corrugated hair contacting surfaces (241) used to crimp hair rather than straighten it. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the hair contacting surfaces of Tsuji et al. corrugated, as taught by Lo, in order to crimp hair rather than straighten it.

Tsuji et al. does not disclose that the hair contacting element has a groove for connection to a tongue of the hair styling tool. However, Lo discloses that its hair styling tool has a groove (231) for connection to a tongue (projection 242) of its hair contacting element. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a groove on the hair contacting element and a tongue of the hair styling tool of Tsuji et al., as taught by Lo, in order to provide a quick and easy way to interchange differently shaped hair contacting elements for different hair styles. Although the tongue and groove of Lo are reversed in orientation with the way they are oriented in claim 12, it would still be obvious to interchange the positions of the tongue and groove when applying the teaching of the tongue and groove to Tsuji

et la., since mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Gazda*, 104 USPQ 400 (CCPA 1955).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3-8, and 10-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Swanson discloses an iron with apertures located in grooves. Rothman discloses a hair styling tool that has apertures on its hair contacting elements. Kunz discloses a hair styling element with recessed apertures on its hair contacting element.

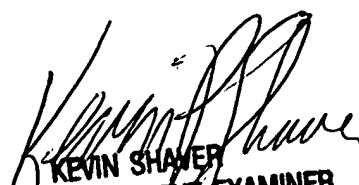
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
slw

  
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